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OFFICE OF PETITIONS

In re Patent No. 7,199,280 :
Te Riele et al. : DECISION ON
Application No. 09/884,877 : REQUEST FOR
Issue Date: 04/03/2007 : RECONSIDERATION OF
Filed: 06/20/2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. : UNDER 37 CFR 1.705
033730-0102 :

This is in response to the REQUEST FOR RECONSIDERATION OF
DECISION ON PATENT TERM ADJUSTMENT PETITION UNDER 37 C.F.R.
1.705(d), filed on November 5, 2007.

The request for reconsideration of patent term adjustment is
GRANTED to the extent indicated.

The patent term adjustment has been reconsidered, and for the
following reasons, the revised PTA is 0 days.

The Office has updated the PALM and PAIR screens to reflect that
the correct Patent Term Adjustment (PTA) at the time of mailing
of the Notice of Allowance is zero (0) days. A copy of the
updated PALM screen, showing the correct determination, is
enclosed.

Patentees argue that the initial request filed on June 4, 2007
should not have been dismissed as untimely with respect to the
173 day period of reduction for applicant delay in responding to
the Notice to File Missing Parts mailed on December 26, 2001.

It is noted that although the initial request for reconsideration asserted that there is an error in the patent term adjustment, patentees indicated that the determination of zero days patent term adjustment pursuant as of the mailing of the notice of allowance is correct. Accordingly, it is agreed that under the circumstances of this case, the request of June 4, 2007, was timely filed.

It is agreed that 1 day of reduction for applicant delay for the filing of a reply on April 15, 2002, three (3) months and one (1) day after the mailing of the Notice to Comply mailed on January 14, 2002, is proper. This period of reduction has been entered.¹

With regard to the Notice to File Missing Parts mailed on July 24, 2001, a response was filed on December 26, 2001, three months and 63 days after the mailing of the Notice. Therefore, the proper period of reduction for applicant delay is 63 days, not 173 days. The 173 day period has been removed² and a 63 day period of reduction has been entered.³

As to the "B" delay, the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 21, 2004, and ends on January 17, 2006, the day before the RCE was filed, or 576 days. See 35 U.S.C. 154(b)(1)(B)(i). This period does not include the number of days in the period beginning on the date a notice of appeal was filed, June 23, 2005, and ending on the day before the RCE was filed, or 209 days. Accordingly, the period of "B" delay is 367 (576 - 209) days. The 535 day period of adjustment entered at issuance for B delay is being removed and a period of 367 days is being entered.⁴

In view thereof, the revised patent term adjustment is zero days. Given that the error in calculation of patent term adjustment would not change the patent term adjustment indicated on the patent, it is determined that no further action is required by the Office.

¹ See Line 109 of the attached PALM PTA Calculation.

² See Line 106 of the attached PALM PTA Calculation.

³ See Line 112 of the attached PALM PTA Calculation.

⁴ See Lines 95.5, 115, and 116 of the attached PALM PTA Calculation.

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The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the typed name.

Anthony Knight

Director

Office of Petitions

Encl: Revised PALM Determination

PTA Calculations for Application: 09/884877

Application Filing Date:	06/20/2001	PTO Delay (PTO):	597
Issue Date of Patent:	04/03/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	608
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-57		

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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